

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Encompass Indemnity Co.

v.

Civil No. 09-cv-00067-JL

Dell, Inc., et al.

ORDER AFTER PRELIMINARY
PRETRIAL CONFERENCE

The Preliminary Pretrial Conference was held in chambers on **June 22, 2009.**

The Discovery Plan (document no. 13) is approved as submitted, with the following changes:

- "DiBenedetto" disclosure deadline - **October 20, 2009**
- Summary Judgment - **April 7, 2010**
- Trial - **August, 2010**

Based on the discussions between the court and counsel at the conference, the following affirmative defenses are **stricken** without prejudice to being reinstated on request if warranted by the evidence: Dell's ¶ 70 and Sony's ¶ 92 (modification/degradation) and Dell's ¶ 72 and Sony's ¶ 94 (negation of warranty on same basis).

Summary Judgment. The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

Discovery disputes. Discovery disputes will be handled by the undersigned judge in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The Deputy Clerk will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. Such motions should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: June 22, 2009
cc: Sumner F. Kalman, Esq.
Thea S. Valvanis, Esq.
Ivy E. Rosier, Esq.
Steven M. Gordon, Esq.